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			ART UNIT 2122	PAPER NUMBER

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/056,955

Applicant(s)

WEISMAN ET AL.

Examiner

Matthew A. Dickeson

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 22-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 22-28 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-28 were presented for examination. The priority date established for this application is 8/1/2001. Claims 1-21 remain pending in this application, and were considered by the examiner. Claims 22-28 were withdrawn from consideration in this application according to applicant's election given on December 20, 2004.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-21, drawn to network software download/installation, classified in class 717, subclass 174+.

Group II. Claims 22-28, drawn to network computer configuring and regulating, classified in class 709, subclass 220+ and 232+.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination of Group I as claimed does not require the particulars of the subcombination of Group II as claimed because these inventions have acquired a separate status in the art as shown by their different classification. The subcombination has separate utility such as simple file transfer and downloading not relating to software distribution, and bandwidth testing for the file transfer channel.

Because these inventions are distinct for the reasons given above, restriction for examination purposes as indicated is proper.

3. During a telephone conversation with Mr. Vidya Bhakar (Reg. No. 42323) on December 20, 2004, a provisional election was made without traverse to prosecute the invention of Group I, claims 1-21. Claims 22-28 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Information Disclosure Statement

4. The Office acknowledges receipt of the Information Disclosure Statements filed May 1, 2003, and October 21, 2004. They have been placed in the application file and the information referred to therein has been considered by the examiner.

Drawings

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Fig. 4, number 408. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the

applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities: inconsistent labeling of drawing references ("download manager 603" and "DM603"; see pg. 15, l. 3 and 7) and duplication of phrases ("The actual download and sleep durations are"; see pg. 15, l. 14) have been noted in the specification. Applicant is requested to review and correct all errors in the specification.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-15, 20, and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "relatively small" in claims 1, 6, 11, and 20 is a relative term which renders the claim indefinite. The term "relatively small" (l. 4-5 in claims 1, 6, and 11) is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Any file size can be considered relatively small when compared with a larger file size, or with a larger storage capacity size. A file ranging in size from 1 byte to 999.999 megabytes is still relatively small when compared with a 1 gigabyte file.

Claims 2-5, 7-10, and 12-15 are also rejected for being dependent on a rejected base claim.

The term "about" in claims 3, 10, and 21 is a relative term which renders the claim indefinite. The term "about" is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. A 99.95 kilobyte compressed file, a 98 kilobyte compressed file, an 84 kilobyte compressed file, and a 70 kilobyte compressed file all have a size less than a 100 kilobyte compressed file; however, each is also "less than about 100 kilobytes", relative to a 10 byte compressed file. Even a 10 kilobyte compressed file, a factor of 1000 times greater than a 10 byte compressed file, is still relatively about the size of a 100 kilobyte compressed file, within a tolerance of a factor of 10.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1, 4 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Chanos et al (20,020,120,507).

Referring to claim 1, Chanos et al. ('507) disclose a method for providing feature rich advertisements including consumer request information. The method of Chanos et al. ('507) comprises:

"selecting an application software from a first web site coupled to a network" (see Fig. 2 and related text, e.g. Par. 0062, l. 1-8, which states "Fig. 2 illustrates a flow chart of ... delivery of request based consumer information ... the marketing system sends the consumer one or more electronic documents having one or more filtering mechanisms ...")

"downloading a packaging file on a client computer coupled to the network, the packaging file including the selected application software and a relatively small first stage software, the first stage software including instructions for downloading another application software from a second web site coupled to the network" (see Fig. 2 and related text, e.g. Par. 0014, l. 1-5, which reads "... a feature rich advertisement (a packaging file including the selected application software) ... provides consumers with a mechanism for finding, requesting, or authorizing the sending of additional information (and a ... first stage software ... including instructions for downloading another application software from a second web site...) related to the products or services advertised.")

"accepting the other application software for download from the second web site to the client computer" (see Fig. 2 and related text, e.g. Par. 0014, l. 10-16, which states "The consumer can also request additional information be directed toward his or her browser, including, for example, ... additional information on promotional offerings,

products or services from the provider of the banner advertisement, the advertiser, a partnering company of the same, or the like.” The exemplary sources mentioned in the reference from which the consumer can have additional information directed to his or her web browser would inherently deliver this information from web servers other than the web server (*from the second web site*) delivering the content of the advertisement and selection mechanism.)

“*running the first stage software*” (see Fig. 2 and related text, e.g. Par. 0014, l. 5-11, which reads “For example, the advertisement can allow a consumer to request an email (*running the first stage software*) ... additionally, the consumer can request an email be forwarded ... The consumer can also request additional information be directed toward his or her browser ...”)

“*downloading the other application software onto the client computer*” (see Fig. 2 and related text, e.g. Par. 0014, l. 10-16, which states “The consumer can also request additional information be directed toward his or her browser, (*downloading ... onto the client computer*) including, for example, ... [different exemplary categories of information]”)

Chanos, et al ('507) disclose the use of electronic documents comprising applets in the subscription mechanism (see Par. 0066, l. 5-18). The reference also indicates that one of ordinary skill in the art would be familiar with the capabilities inherent in the use of applets (see Fig. 5, 8-9 and related text, e.g. Par. 0086 l. 11-22, Par. 0109 – Par. 0110, Par. 0112 l. 3-10, Par. 0118) to display content to the user at all stages of the

client/server interaction process. Therefore, the use of applets is implicit and inherent at all stages of the invention disclosed by Chanos et al. ('507).

With respect to claim 4, Chanos et al. ('507) state that the communications network integral to the disclosed invention comprises the Internet (see Fig. 1 and related text, e.g. Par. 0050, l. 1-5).

Per claim 5, Chanos et al. ('507) discuss the consumer's ability to request information (using the first stage software) from sources including offers "from the provider of the banner advertisement, the advertiser, a partnering company of the same, or the like" (e.g., see Par. 0014, l. 10-16). The reference also embodies multiple teachings regarding the use of advertising material submitted by a plurality of advertising entities, each separate from the entity providing the advertising content to the consumer (see Figs. 8-9 and related text, e.g. Par. 0038, and Par. 0110, l. 7-16). These teachings read on the limitation of applicants' claim 5, which is directed to promotion of distribution of software between web site operators.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 2, 6-9 and 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chanos et al. ('507) in view of Bodin et al. (6,061,733).

As to claim 2, Chanos et al. ('507) teach the incorporated limitations of claim 1 as shown above, but the reference does not teach a method of dividing any application software into chunks, nor downloading those chunks sequentially.

Bodin et al. ('733) describe a method by which a large file may be passed from server to client as a collection of smaller files (see Figs. 2-5 and related text). The reference discusses as prior art the method of "splitting the large file into multiple smaller files." This results in a better chance of a given download being successful." (see Col. 1, l. 48-51) The particular method of the disclosed invention dynamically divides the downloadable file into portions based on the user selected portion size (e.g.,

see Col. 4, l. 5-11), without dividing the original file on the server, while the user downloads the portions. It is noted that both of these teachings involve dividing the file into separate downloadable portions, and downloading those portions one at a time until all are downloaded.

It would have been obvious to one of ordinary skill in the pertinent art at the time of invention by applicant to modify the method of Chanos et al. ('507) to download additional content to the client machine using the teachings and motivation set forth in Bodin et al. ('733).

In regard to claim 6, Chanos et al. ('507) provide a method for obtaining software over a network. The method of Chanos et al. ('507) comprises:

"selecting a first software from a first site" (see Fig. 2 and related text, e.g. Par. 0062, l. 1-8, which states "Fig. 2 illustrates a flow chart of ... delivery of request based consumer information ...")

"downloading the first software on a client computer" (see Fig. 2 and related text, e.g. Par. 0062, l. 1-8, which states "... the marketing system sends the consumer one or more electronic documents having one or more filtering mechanisms ...")

"downloading a relatively small second software to the client computer in response to the selection of the first software, the second software including instructions for initiating a download of a third software from a site other than the first site" (see Fig. 10 and related text, e.g. Par. 0121, l. 5-12, which reads "the requesting process begins ... when the consumer computing device loads an electronic document (*first software*) ... the web page includes the foregoing feature rich advertisement (*relatively small*

second software ... including instructions for initiating a download ...), and Par. 0125, l. 14-21, which reads “the marketing system can redirect one or more windows in the browser of the consumer computing device ... to online information (*a third software*) provided by, for example, the vendor of the products (*a site other than the first site*) ...” The content of the initial web page and the product vendor information loaded to the consumer’s computer may include any type of content, including other applets than the feature rich advertisement, and can therefore be construed to include software.)

Chanos et al. ('507) do not teach a method of downloading software to the client as a series of individually downloadable portions.

Bodin et al. ('733) describe a method by which a large file may be passed from server to client as a collection of smaller files (see Figs. 2-5 and related text), as discussed above with respect to claim 2. The method of Bodin et al. ('733) comprises:

“downloading the third software to the client computer as a series of individually downloadable portions” (The reference discusses as prior art the method of “splitting the large file into multiple smaller files. This results in a better chance of a given download being successful.” (see Col. 1, l. 48-51) The particular method of the disclosed invention dynamically divides the downloadable file into portions based on the user selected portion size (e.g., see Col. 4, l. 5-11), without dividing the original file on the server, while the user downloads the portions.)

It would have been obvious to one of ordinary skill in the pertinent art at the time of invention by applicant to modify the method of Chanos et al. ('507) to download

additional content in portions to the client machine using the teachings and motivation set forth in Bodin et al. ('733).

Addressing claim 7, the rejection of claim 6 is incorporated. Chanos et al. ('507) also teach that the feature rich advertisement (*second software*) may direct the user's browser to the website of the online marketing system (*identifying the third site as a source ...*) to download additional content (*third software*) (see Par. 0126, l. 1-6). The reference also discloses the use of one or more databases by the marketing system (see Fig. 1 and related text, e.g. Par. 0051, l. 3-8) to store product information for display to the user, and that a skilled artisan will know that the databases may be in different locations or use data mirrors (*third software is located on a second site that is linked to a third site*), among other possible embodiments (e.g., see Par. 0060, l. 3-12). These teachings read on the limitations of applicants' claim 7.

With respect to claim 8, the rejection of claim 6 is incorporated. Chanos et al. ('507) also state that the communications network integral to the disclosed invention comprises the Internet (see Fig. 1 and related text, e.g. Par. 0050, l. 1-5).

As to claim 9, the rejection of claim 6 is incorporated. Chanos et al. ('507) also disclose that the marketing system may provide a subscription mechanism to the user (see Figs. 1-2 and related text, e.g. Par. 0066, l. 6-18), comprising applets (*application software*).

Referring to claim 11, Chanos et al. ('507) disclose a system for distributing software. The system of Chanos et al. ('507) comprises:

"a first server computer having a set of web pages and a first downloadable software" (see Figs. 1-2 and related text, e.g. Par. 0051, I. 3-8, and Par. 0066, I. 6-18, which describe a subscription mechanism comprising applets, which may be transmitted to the consumer computing device, the subscription mechanism provided by a marketing system residing on a portal server.)

"a second server computer having another set of web pages, a second downloadable software, and a relatively small first stage software" (see Figs. 8-9 and related text, e.g. Par. 0108 – 0110, which describes a host web site, CNN.com, having various electronic content (*second downloadable software*) and a feature rich advertisement (*relatively small first stage software*). The content of the advertisement and the host web site may include applets, as applied above to claim 1.)

"a network coupling the first server computer, the second server computer, and the client computer" (see Figs. 1, 8-9 and related text, e.g. Par. 0050, I. 1-4, which describes a communications network coupling the client to external content providers (*second server computer*) and to the portal server system (*first server computer*) of the marketing system.)

"a client computer having a web browser, the client computer being configured to receive the first stage software by downloading the second downloadable software, the client computer being configured to receive the first downloadable software ... by following instructions included in the first stage software" (see Figs. 1-2, 8-9 and related text, which disclose a client computer having a web browser (see Fig. 1 and related text), configured to display the feature rich advertisement (*first stage software*) upon

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loading the web page content (*second downloadable software*) of the host web site (see Figs. 8-9 and related text), the feature rich advertisement configured to redirect the client's web browser to the portal server of the marketing system to receive the subscription mechanism (*receive the first downloadable software ... by following instructions included in the first stage software*) and additional content (see Fig. 2 and related text) as discussed above.)

Chanos et al. ('507) do not teach downloading the first software in chunks according to instructions in the first stage software.

Bodin et al. ('733) describe a describe a system in which a large file may be passed from server to client as a collection of smaller files (see Figs. 2-5 and related text), as discussed above with respect to claim 2. The system of Bodin et al. ('733) comprises:

"[configuring the client computer to] *receive the first downloadable software in chunks ...*" (The reference discusses as prior art "splitting the large file into multiple smaller files". This results in a better chance of a given download being successful." (see Col. 1, l. 48-51) The disclosed system dynamically divides the downloadable file into portions based on the user selected portion size (e.g., see Col. 4, l. 5-11), without dividing the original file on the server, while the user downloads the portions.)

It would have been obvious to one of ordinary skill in the pertinent art at the time of invention by applicant to modify the system of Chanos et al. ('507) to download the subscription mechanism and additional content in portions to the client machine using the teachings and motivation set forth in Bodin et al. ('733).

With respect to claim 12, the rejection of claim 11 is incorporated. Chanos et al. ('507) also state that the communications network integral to the disclosed invention comprises the Internet (see Fig. 1 and related text, e.g. Par. 0050, l. 1-5).

Regarding claim 13, the rejection of claim 11 is incorporated. Chanos et al. ('507) also disclose a feature rich advertisement which provides a mechanism to the user for obtaining additional content related to the products or services advertised (see Fig. 2 and related text, e.g. Par. 0014, l. 1-5). The combination of the advertisement and the filtering mechanism (*second downloadable software and first stage software*) implies bundling the content and the mechanism together as one downloadable, displayable unit. This teaching reads on the limitation of applicants' claim 13.

With respect to claim 14, the rejection of claim 11 is incorporated. Chanos et al. ('507) also state that the code generating the content of the ad space "can include links that pull content from web servers ... while the website provider [can be another entity] (*the second downloadable software and the first stage software are in separate files*)."

(see Figs. 8-9 and related text, e.g. Par. 0110, l. 7-14) Drawing content (*downloadable software*) from web servers other than the website provider implies that the advertising content can be in separate files from the content of the website provider. This teaching anticipates the limitation of applicants' claim 14.

As to claim 15, the rejection of claim 11 is incorporated. Chanos et al. ('507) also teach that the feature rich advertisement (*first stage software*) may direct the user's browser to the website of the online marketing system (*identifies a third server computer as a source ...*) to download the subscription mechanism and additional content (*first*

software) (see Par. 0126, I. 1-6). The reference also discloses the use of one or more databases by the marketing system (see Fig. 1 and related text, e.g. Par. 0051, I. 3-8) to store product information for display to the user, and that a skilled artisan will know that the databases may be in different locations or use data mirrors (*the third server computer is linked to the first server computer*), among other possible embodiments (e.g., see Par. 0060, I. 3-12). These teachings read on the limitations of applicants' claim 15.

In reference to claim 16, Chanos et al. ('507) provide a method for distributing software over a network. The method of Chanos et al. ('507) comprises:

"bundling a first stage software with a first application software available for download from a first server computer" (see Fig. 2 and related text, e.g. Par. 0014, I. 1-5, which reads "... a feature rich advertisement (*a first application software available for download ...*) ... provides consumers with a mechanism (*a first stage software*) for finding, requesting, or authorizing the sending of additional information related to the products or services advertised." The content of the advertisement and the filtering mechanism may include applets, as applied above to claim 1.)

"storing a second application software on a second server computer, the second application software being offered to an end-user who wishes to download the first application software" (see Figs. 1-2, 8-10 and related text, e.g. Par. 0051, I. 3-8, Par. 0066, I. 6-18, and Par. which describe a subscription mechanism comprising applets, provided by a marketing system residing on a portal server. The user receives an offer via the feature rich advertisement (*first application software*) to receive various product

information or to subscribe to an information delivery service, facilitated by the subscription mechanism.)

“downloading the second application software ... to an end-user who agrees to download the second application software, the second application software being downloaded in accordance with instructions included in the first stage software” (see Figs. 1-2, 8-10 and related text, e.g. Par. 0126, and Par. 0066, l. 7-18, which describe the feature rich advertisement’s filtering mechanism redirecting the user’s web browser to the portal server of the marketing system to receive the subscription mechanism *(downloading the second application software ... in accordance with instructions included in the first stage software)* and additional content when the user elects to.)

Chanos et al. ('507) do not teach downloading the second application software in chunks according to instructions in the first stage software.

Bodín et al. ('733) describe a describe a system in which a large file may be passed from server to client as a collection of smaller files (see Figs. 2-5 and related text), as discussed above with respect to claim 2. The system of Bodin et al. ('733) comprises:

“... downloading the second application software in chunks ...” (The reference discusses as prior art “splitting the large file into multiple smaller files.” This results in a better chance of a given download being successful.” (see Col. 1, l. 48-51) The disclosed system dynamically divides the downloadable file into portions based on the user selected portion size (e.g., see Col. 4, l. 5-11), without dividing the original file on the server, while the user downloads the portions.)

It would have been obvious to one of ordinary skill in the pertinent art at the time of invention by applicant to modify the method of Chanos et al. ('507) to download the subscription mechanism and additional content in portions to the client machine using the teachings and motivation set forth in Bodin et al. ('733).

With respect to claim 17, the rejection of claim 16 is incorporated. Chanos et al. ('507) also state that the communications network integral to the disclosed invention comprises the Internet (see Fig. 1 and related text, e.g. Par. 0050, l. 1-5).

In regard to claim 18, the rejection of claim 16 is incorporated. Chanos et al. ('507) also teach that the filtering mechanism is dynamically updated with new filters at the direction of the marketing system, based on the user's previous filter selections (see Figs. 2-4 and related text, e.g. Par. 0065 and Par. 0069), before transmitting the subscription mechanism (*second application software*) to the user. This process takes place both before the user has made a final product filtering selection, and when the user makes another product filtering selection after downloading and using the subscription mechanism in response to a previous filtering selection; each time, the filtering mechanism (*first stage software*) is updated. This teaching reads on the limitation of applicants' claim 18.

Addressing claim 19, Chanos et al. ('507) also provide an option for the feature rich advertisement's filtering mechanism to redirect the user's web browser to the portal server of the marketing system to receive the subscription mechanism and additional content (*offering a third application software ...*) from the web page of the marketing system when the user elects to.

However, the reference does not teach the method of downloading the third application software in chunks.

Bodin et al. ('733) describe a system in which a large file may be passed from server to client as a collection of smaller files (see Figs. 2-5 and related text), as discussed above with respect to claim 16.

It would have been further obvious to one of ordinary skill in the pertinent art at the time of invention by applicant to modify the system of Chanos et al. ('507) to download the additional content of the marketing system's web page in portions to the client machine using the teachings and motivation set forth in Bodin et al. ('733).

As to claim 20, the rejection of claim 16 is incorporated. The size of the filtering mechanism (*first stage software*) of Chanos et al. ('507), being a program, would be inherently small in comparison to enriched media content presented in the feature rich advertisement (*downloadable software*), including image, animation, sound, and dynamic display files (see Par. 0110, l. 2-7).

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew A. Dickeson whose telephone number is (571) 272-7219. The examiner can normally be reached on Monday thru Friday, 8:00am - 4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



TUAN DAM
SUPERVISORY PATENT EXAMINER

MAD